

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KELLY D. EDEN and SHAWNA L. EDEN
husband and wife,

Plaintiffs,

v.

WASHINGTON STATE PATROL, a
Washington State Agency, KEITH JORDAN and
“JANE DOE” JORDAN, husband and wife,

Defendants.

No. 05-1091 MJP

ORDER ON DEFENDANT KEITH
JORDAN’S MOTION IN LIMINE

This matter comes before the Court on Defendant Keith Jordan’s Motion in Limine. (Dkt. No. 27). Defendant moves to exclude witnesses disclosed after the discovery deadline. Defendant also moves to exclude an expert witness where no report of opinions was provided to Defendant prior to the discovery cut-off. Having reviewed the materials submitted by the parties, the Court GRANTS Defendant’s motion. The reasons for the Court’s order are set forth below.

Discussion

1. Witnesses Disclosed After the Discovery Deadline

The Court's Scheduling Order, issued on September 23, 2005, (Dkt. No. 12) required the parties to complete discovery by July 17, 2006. Nevertheless, on or about August 8th, 2006, Plaintiffs provided a supplemental witness disclosure to Defendants. This disclosure is untimely. Plaintiffs have not provided a reasonable excuse for the untimeliness of the disclosure. And the untimely disclosure, if allowed, would be prejudicial to Defendants because the disclosure took place after the discovery deadline. Pursuant to Federal Rule of Civil Procedure 37(c)(1), Plaintiffs are therefore prohibited from using as evidence any of the eight witnesses listed in the untimely disclosure.

2. Failure to Provide Expert Report

The Court's Scheduling Order also stated that expert witness disclosures and reports under FRCP 26(a)(2) were due on May 17, 2006. Defendant contends that as of August 30th, 2006, no report had been provided from expert witness Melvin Tucker. Plaintiffs do not dispute that contention, nor do they provide any explanation for the failure to provide this expert witness report. Pursuant to FRCP 37(c)(1), Mr. Tucker is excluded for failure to comply with the Court's Scheduling Order requiring expert witness reports to be submitted by May 17, 2006.

Conclusion

For the reasons discussed above, Defendant's Motion in Limine is GRANTED.

The clerk is directed to send copies of this order to counsel for Plaintiffs and to counsel for Defendants.

Dated this 11th day of October, 2006.



Marsha J. Pechman
United States District Judge